

REMARKS

A first After Final Response was filed on August 20, 2010 but was not accepted for consideration and the amendments were not entered. Claims 35-38 were under examination.

Claims 1-34 were previously canceled herein without prejudice to their inclusion in a subsequent divisional or continuation application.

Claims 35-37 were rejected in Final Office Action dated June 21, 2010. Claim 38 was objected to.

Applicants thank Examiner for withdrawing prior objections and written description and enablement rejections.

Claims 35-38 have been canceled herein without prejudice to their inclusion in a continuation or divisional application.

New claims 39-41 have been added. Claim 38 has been rewritten in independent form as new claim 39, encompassing the basic elements of canceled claim 35, from which it depended. Two new claims (40 and 41) depend from new claim 39, and use the same wording as now canceled dependent claims 36 and 37. No new subject matter has been added by way of the amendments described herein.

Applicants thank Examiner for clarification in a telephone conversation with Applicant's representative regarding the Examiner's decision to not enter the amendments as provided in the first After Final Response submitted on August 20, 2010.

Response to Claim Objections

In the Final Office Action dated June 21, 2010, claim 38, which recited only compound 103833, was objected to as depending from a rejected base claim (independent claim 35). Although not necessarily agreeing with the reasoning of the Examiner, Applicants have amended the text of claim 38, as suggested, by writing it in independent form based on the wording of previous independent claim 35. However, for sake of clarity claim 38 has been canceled and the amendment described is in new claim 39. Two new claims (40 and 41) depend from new claim 39, and use the same wording as previous dependent claims 36 and 37, now canceled, which depended from now canceled independent claim 35.

Applicants respectfully submit that the text of canceled claim 38, now amended as new independent claim 39, overcomes the objection and that new claim 39 is in condition for allowance. New claim 39 and its new dependent claims 40 and 41 recite only the use of compound 103833. Applicants further submit that new claims 40 and 41, which depend from new claim 39, are allowable for the same reasons.

Response to Rejection

Examiner has rejected now canceled claims 35-37 as allegedly lacking enablement under 35 U.S.C. 112, first paragraph for eight of the recited compounds, namely 313, 316, 317, 319, 322, and 331-33. Although not necessarily agreeing with the reasoning of the Examiner, Applicants have canceled claims 35-37 without prejudice to their inclusion in a continuing or divisional application. Applicants also point out that compound 103833, as specifically recited in objected to dependent claim 38, and as now recited in new independent claim 39, was one of the recited compounds not rejected for lack of enablement. Applicants respectfully submit that cancellation of the rejected claims places the application in condition for allowance and request that the rejections as to these claims be withdrawn.

Conclusion

The claimed invention as amended and numbered as new claims 39-41, is believed to be patentable and applicants request passage of the application to issuance. The Examiner is invited to contact the Applicants' attorney to discuss any matter concerning this application.

Please charge any excess fees due and credit any overpayment to Charge Account No. 50-0423.

Respectfully submitted,

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